IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
THURSDAY, THE SEVENTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE N.V. RAMANA
WRIT PETITION NO : 9892 of 2004

Between:

1. K.Lakshminarayana, s/o Suryanarayana, aged 47 years,

r/0 Tadepalligudem, West Godavari District.

2. K.Ram Babu, s/o Suryanarayana, aged 52 years,

r/o Tadepalligudem, West Godavari District.

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PETITIONERS

AND

The Commissioner, Tadepalligudem Municipality,

Tadepalligudem, West Godavari District.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, order or direction and more particularly one in the nature of writ of Mandamus, directing the respondent not to demolish the portions of petitioners house bearing Municipal Door No.5-23-8 situated in K.N.Road, Tadepalligudem, West Godavari District in pursuance of the proceedings Rc.No.G1/608/04 dated 9-6-2004 and further directions declaring the action of the respondent in issuing the proceedings Rc.No.G1/608/2004 dated 9-6-2004 is arbitrary, illegal and contrary to law and is violative of principles of natural justice.

F**or the Petitioners: MR.V.S.N.Sarma, Advocate**

For the Respondent : MR.SRINIVAS DAMMALAPATI, Standing Counsel for Municipalities.

The Court at the stage of admission made the following Oral Order:

W.P. No. 9892 of 2004

Heard the learned counsel for the petitioners and the learned Standing Counsel for the respondent-Municipality.

The only grievance of the petitioners, as submitted by their counsel and as projected in the writ petition, is that the respondent without issuing any notice and without following the due process of law, the respondent passed the impugned order seeking to demolish the building, which according to them, is illegal and arbitrary.

The learned Standing Counsel appearing on behalf of the respondent-Municipality on instructions submitted that the petitioners are constructing the building in deviation of the sanctioned plan, in that, they have not maintained the frontage as per the plan sanctioned by the respondent-Municipality, and therefore, the respondent-Municipality passed the impugned order seeking to demolish the portion of the building which was constructed by the petitioners in deviation of the sanctioned plan.

The impugned order, admittedly is in the nature of final order, in that it seeks to demolish the building of the petitioners, and it is admitted to by the learned Standing Counsel for the respondent-Municipality that no notice whatsoever was issued to the petitioner before the impugned order came to be passed. Inasmuch as the impugned order was not preceded by any notice to the petitioner, the same suffers from the vice of violation of principles of natural justice. Principles of natural justice demand that before any order adverse to a party is passed, he should be issued notice and provided an opportunity to put forth his version. Since the impugned order was not preceded with any notice, the same cannot be sustained.

In the result, the writ petition is allowed. The impugned order is quashed and set aside. This order, however, does not preclude the

respondent-Municipality from issuing notice to the petitioners and take appropriate action after considering the objections that may be filed by the petitioners. Unless and until the respondents issue notice to the petitioners and consider their objections and pass appropriate orders, they shall not resort to any demolition of the building of the petitioners. No costs.

Date: June 17, 2004.
KSR

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To
1.The Commissioner, Tadepalligudem Municipality,Tadepalligudem, West Godavari District.
2. 2CD copies.